BEFORE THE ARIZONA CORPORATION COMMISSION

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Commissioner IN THE MATTER OF ILEC UNBUNDLING

OBLIGATIONS AS A RESULT OF THE FEDERAL TRIENNIAL REVIEW ORDER Docket No. T-00000A-03-0369

STAFF REQUEST FOR A PROCEDURAL ORDER

On August 21, 2003, the Federal Communications Commission ("FCC") released its Triennial Review Order in which it once again examined the obligations of incumbent local exchange carriers ("ILECs") under Section 251(c)(3) to make elements of their networks available on an unbundled basis to new entrants at cost-based rates. The Order delegates certain responsibilities to state commissions to undertake a more granular analysis in determining whether "impairment" or "no impairment" exists with regard to a particular unbundled network in a geographic area, location or route.

On October 1, 2003, the Arizona Corporation Commission ("ACC" or "Commission") issued a Procedural Order commencing the 90 day phase of this case. The 90 day phase of this case was commenced to review any evidence presented to the state commission by CLECs which rebuts the national presumption established by the FCC that ILECs do not need to provide unbundled switching to CLECs serving enterprise market customers using DS-1 and higher speed loops. The 90 day phase of the case is so named because a state is required to petition the FCC within 90 days if it intends to rebut the national presumption of no impairment in a particular market. The Hearing Division

In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, et. al., CC Docket No. 01-338, et. al., Report and Order and Order on Remand and Further Notice of proposed Rulemaking, (Rel. Aug. 21, 2003).

established a deadline of October 10, 2003, for any carrier to file evidence in support of a finding of impairment for CLECs serving enterprise customers using high-capacity loops (DS-1 and higher capacity) without access to the local circuit switching UNE.

Staff respectfully requests that the Hearing Division now issue a Procedural Order commencing the 9 month² phase of this proceeding. The 9 month phase of this case encompasses the following three issues: 1) whether competitive carriers would be impaired without the availability of the local switching UNE for the mass market or residential customers, 2) whether carriers would be impaired without unbundled loops for the enterprise market, and, 3) whether carriers would be impaired without unbundled dedicated transport on a particular route.

The FCC found that on a national basis, CLECs are impaired without access to unbundled local switching for mass market customers. The FCC's finding is subject to more granular review by the states pursuant to FCC-defined triggers and other operational and economic criteria. The states need only undertake this granular review for geographic areas identified by the ILEC in which it intends to rebut the national impairment finding. Other responsibilities delegated to state commissions as part of their granular review include distinguishing among markets where different findings of impairment are likely and implementing a batch hot cut process to permit hot cuts in sufficient volumes that are likely to occur in the mass market.

For enterprise loops, the FCC found impairment on a nationwide basis for DS1, DS3 and dark fiber loops. The FCC delegated to state commissions the authority to de-list enterprise loops on a customer-specific basis if certain triggers are satisfied.

Finally, for dedicated transport, the FCC found impairment on a nationwide basis for DS1, DS3 and dark fiber transport. However, the FCC once again delegated to state commission the authority to de-list dedicated transport of a certain capacity on a route-specific basis if certain triggers are satisfied.

To commence the 9 month phase of this case, Staff believes that it will be necessary for Qwest and other ILECs to first identify the geographic areas, routes and customer locations in which

² Under the FCC's Triennial Review Order, states are required to conclude any mass market local circuit switching, enterprise loop and dedicated transport reviews in 9 months. The 9 month period ends on July 2, 2004.

they intend to rebut the national impairment presumption. Discovery can then be tailored to the 1 geographic areas, routes and customer locations identified. Parties should also be requested to file comment by October 17, 2003 on the NARUC TRIP Task Force proposed discovery template, the 3 Owest proposed discovery template and discovery template on the Pennsylvania Commission's 4 5 website at http://puc.paonline.com/PcDocs/431201.doc. 6 Staff has attached a proposed procedural schedule for the 9-month phase of this case which 7 includes two weeks of hearings and would allow a Commission Decision to be entered by June 24, 8 2004. 9 Staff respectfully requests that a procedural conference be scheduled for the week of October 10 20, 2003, to discuss the proposed schedule, discovery, a protective order and any other issues the 11 parties deem relevant. RESPECTFULLY SUBMITTED this day of October, 2003 12 13 14 Maureen A. Scott, Attorney 15 Legal Division Arizona Corporation Commission 16 1200 West Washington Street Phoenix, Arizona 85007 17 18 19 The original and thirteen (13) copies of the foregoing were filed this 26th 10th 20 day of September, 2003 with: 21 Docket Control Arizona Corporation Commission 22 1200 West Washington Street Phoenix, AZ 85007 23 24 Copies of the foregoing were Mailed/hand-delivered this 26th 10 % 25 day of September; 2003 to: 26 Catherine Fox **Bob Innes** Adelphia 27

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	San Antonio, TX 78125-2109	A 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
4		Verizon Avenue
5	Marla Hanley Smoke Signal Communications	2 Conway Park 150 Field Drive, Suite 300
6	8700 S. Gessner	Lake Forest, IL 60045
	Houston, TX 77074	
7	Eric S. Heath	Vyvx 1 Technology Center Mail Drop: TC-7B
8	Sprint Communications	Tulsa, OK 74103
9	100 Spear Street, Suite 930	·
	San Francisco, CA 94105	WLNI
10	Judith Riley	1 Technology Center, Mail Drop: TC-7B Tulsa, OK 74103
11	Matrix Networks	1 5.75., 0.11 . 7.00
12	Telecom Professionals 300 N. Meridian	Joan Burke
	Oklahoma City, OK 73107	Osborn Maledon 2929 N. Central Avenue, Floor 21
13	The state of the s	P.O. Box 36379
14	Sharon Thomas	Phoenix, AZ 85067-6379
15	Talk America 12001 Science Drive, Suite 130	Attorney for XO Communications
	Orlando, FL 32826	Rex Knowles
16		XO
17	Tina Tecce Talk America	111 E. Broadway, Ste. 100 Salt Lake City, UT 84111
18	6805 Route 202	San Lake City, OT 84111
	New Hope, PA 18938	Michael Reith
19	Donald Taylor	Z-Tel Communications, Inc.
20	Tel West Communications	777 S. Harbour Island Blvd. Suite 990 Tampa, FL 33602
21	P.O. Box 94447	
22	Seattle, WA 98124	Barbara P. Shever
22	Terri Natoli	LEC Relations Mgr. – Industry Policy Z-Tel Communications, Inc.
23	Teligent Services	601 S. Harbour Island Blvd., Suite 220
24	460 Herndon Pkwy #100	Tampa, FL 33602
25	Herndon, VA 20170	Jonathan E.Canis
	Richard Monto	Michael B. Hazzard
26	Universal Access of AZ	Kelly Drye & Warren, LLP
27	233 Wacker Drive, Suite 600 Chicago, IL 60606	1200 19 th Street, NW Fifth Floor Washington, DC 20036
28		asimigion, DC 20030
20		

1		Madison, WI 53705-0158
	Brian Thomas, VP Reg West Time Warner Telecom, Inc.	Ronnie Brookover
2	520 SW 6 th Avenue, Suite 300	Arizona Telephone Company
3	Portland, Oregon, 97204	PO Box 5158
4		Madison, WI 53705-0158
	Transamerica 209 E. University	Kevin Fewell
5	Denton, TX 76201	Copper Valley Telephone
6		PO Box 970
7	David Conn McLeodUSA, Inc.	Wilcox, AZ 85644-0000
,	6400 C. Street SW,	Curt Huttsell
8	PO Box 3177	Navajo Commuincations Company
9	Cedar Rapids, IA 52406-3177	4 Triad Center, Suite 200
	Jeff Crockett	Salt Lake City, UT 84180
10	Snell & Wilmer	Brenda Crosby
11	One Arizona Center	Rio Virgin Telephone Company
12	Phoenix, AZ 85004	Rio Virgin Telephone & Cablevision
12	MadaN Danas	PO Box 189
13	Mark N. Rogers Excell Agent Services, LLC	Estacada, OR 97023-0000
14	PO Box 52092	Mark McLemore
	Phoenix, AZ 85072-2092	South Central Utah Telephone Association
15	D. L. D. L. L	PO Box 226
16	Robert Richards Accipiter Communications, Inc.	Escalante, UT 84726-0000
17	2238 West Lone Cactus Drive, Ste. 100	William J. Hayes
1 /	Phoenix, AZ 85027	Table Top Telephone Company
18		600 N. Second Avenue
19	John Jones CenturyTel	AJO, AZ 85321-0000
	PO Box 4065	Jesse (Jay) B. Tresler
20	Monroe, LA 71211-4065	Verizon California
21	Y XX'11'	112 S. Lakeview Canyon Road
22	Lane Williams Midvale Telephone Exchange	Westlake Village, CA 91362-3831
22	PO Box 7	Valley Telephone Cooperative
23	Midvale, ID 83645-0000	752 E. Malley Street
24	n. t.n. i	PO Box 970
	Ronnie Brookover Southwestern Telephone Company	Wilcox, AZ 85644
25	PO Box 5158_	
26	M Der Q X Ame	
27	Deborah A. Amaral	
28	Assistant to Maureen A. Scott	
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STAFF'S PROPOSED PROCEDURAL SCHEDULE FOR THE 9-MONTH PHASE

Procedural Conference	e WEEK OF OCT 20
Procedural schedule	OCTOBER 24
adopted	
ILEC identifies	OCTOBER 31
geographic areas,	
routes, and customer	
locations in which it	
intends to rebut	
impairment	
presumptions	
ILECs & Interveners	IMMEDIATELY
begin collaborating on	
batch hot cut process	
& ILEC OSS support	
for Line Splitting*	
Filing by ILECs to	NOVEMBER 13
"frame" scope of	
case**	
Comments by	NOVEMBER 24
intervenors on ILECs'	
proposed market	
definition	
Direct Testimony by	DECEMBER 15
Intervenors & ILECs	
Direct Testimony by	JANUARY 30
Staff	
ILECs file final report	JANUARY 30
on the batch hot cut	
process and line	
splitting including	
identification of any	
impasse issues	
Rebuttal Testimony by	FEBRUARY 16
Intervenors & ILECs	
Optional Rebuttal	MARCH & # \
Testimony by Staff	,
2-Week Hearings	MARCH 8-12 & 22-26
Initial Hearing Briefs	APRIL 16
Reply Briefs	APRIL 30
ALJ's Recommended	JUNE 1
Decision	
	JUNE 11
	JUNE 24 and 25
Commission Decision	JUIND 24 and 23

*ILECs shall file status reports at the end of each month

**ILECs' framing filings are to provide information and evidence to date that support their positions on:

The locations, if any, in the state where the ILEC challenges FCC finding of impairment regarding high capacity loops and dedicated transport, including specific locations and routes

The locations (including the ILEC's proposed definition of the associated markets), if any, in the state where ILEC:

- (a) challenges the FCC's finding of impairment with respect to Mass Market Switches, or
- (b) contends the FCC's "triggers" are satisfied with respect to Mass Market Switches

The procedure by which the ILEC proposes to develop a low cost, batch hot cut process

<u>Please Note</u>: Final Order or Decision needs to be issued by July 2, 2004, 9-months from the effective date of the TRO (October 2, 2003).

Initial round of discovery responses will be due in 25 calendar days.